

**FILED**

**MAY 28 2003**

Shortt v. Roe  
No. 01-57181

**CATHY A. CATTERSON**  
**U.S. COURT OF APPEALS**

RYMER, J., dissenting.

I dissent because, regardless of whether Shortt's motion is construed as a successive habeas petition, he failed to demonstrate "extraordinary circumstances" that warrant Rule 60(b) relief. *See Tomlin v. McDaniel*, 865 F.2d 209, 210-11 (9th Cir. 1989).